IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11750 of 2004

Between:

J.Siva Reddy, S/o J.Karibasawanna Goud,
R/o d.No.2/111, Nandavaram Village and Mandal, Kurnool District

..... PETITIONER

AND

1 Union of India, rep.by Secretary, Ministry of Information and Broad Coasting, New Delhi
2 Post Master, Head Post Office, Near Over Bridge, Adoni, Kurnool District
…..RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings dated 5-7-2004 issued by the 2nd respondent Post Master, Adoni, as illegal, untenable, contrary to Proviso to Rule 5 (3) issued in form 4 and set aside the same by declaring that the petitioner is entitled to registration to run the existing cable network in accordance with the Act 9 of 1994 and the Cable Television Networks Rules, 1994

Counsel for the Petitioner:MR.P.SRINIVASULU

Counsel for the Respondents: MR.M.Ganga Rao

(SC FOR CG)

The Court at the stage of admission made the following :

ORDER:

The present writ petition is filed questioning the proceedings of the second respondent dated 5-7-2004 rejecting the application of the petitioner for registration

of cable operator in Nandavaram village on the ground that already one cable T.V.Licence holder is existing in the Nandavaram village.

Learned counsel for petitioner submits that the petitioner is running a cable network in Nandavaram village and he submitted an application to the second respondent in Form-I together with declaration in Form-II along with the requisite fee for grant of licence. However, by reason of the order impugned order, the second respondent for the reasons extraneous and contrary to the Rules of rejection as adumbrated in Rule 5(3) of the Cable Television Networks Rules, 1994.(for short the Rules), rejected the application, which is illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

The impugned order passed by the second respondent reads thus:

With reference to your above cited letter, this is to inform you that there is already one Cable T.V. licence holder in your village Nandavaram.

Hence, issuing of licence for the 2nd Cable T.V. Operator in Nandavaram village is not permitted by the existing rules. The I.P.O. a/t to H.P. Master/Adoni bearing No. 184044200 for Rs. 50/- Rupees fifty which you have enclosed is herewith returned back.

This is for your favour of information.

It is pertinent to note that as per Rule 5(3) of the Rules, the necessary registration can be refused only for the following reasons;

(i).. Application is incomplete

(ii).. Registration fee has not been tendered.

(iii).. Applicant is not a citizen of India.

(iv).. Less than fifty one percent of the paid up share capital of

the applicant company is held by citizens of India.

A reading of the above Rule would make it clear that the registration can be refused for four reasons, namely if the application is incomplete, the registration fee has not been tendered, the applicant is not a citizen of India, and less than fifty one percent of the paid up capital of the applicant company is held by citizens of India. In the instant case, the application of the petitioner for grant of licence has been rejected not for any of the reasons mentioned in Rule 5(3) of the Rules, but for the

reason that already there is one Cable T.V. licence holder in Nandavaram village. Since the reason for which the application has been rejected, does not find place in Rule 5(3) of the Rules, it has to be held that the impugned order passed by the second respondent, is ex-facie illegal, and cannot be sustained, and it is accordingly quashed and set aside. However, it is directed that the second respondent shall reconsider the application of the petitioner once again, and pass appropriate orders thereon in accordance with Cable Television Networks Rules, 1994.

Subject to above direction, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

16-07-2004

TVK

To

1 The Secretary, Ministry of Information and Broad Coasting

Union of India, , New Delhi
2 Post Master, Head Post Office, Near Over Bridge, Adoni, Kurnool District

3.2CD copies

*Form-NIC-OGS/WP{**VSR**}*